



BRIEFING: FEBRUARY 10, 2015 BOARD MEETING AGENDA ITEM #4

TO: Chairman Richard and Board Members

FROM: Tom Fellenz, Chief Counsel
James Andrew, Assistant Chief Counsel

DATE: February 10, 2015

RE: California High-Speed Train Fresno to Bakersfield Section – Modification of Statement in Resolution # HSRA 14-10 Regarding Notice to City of Bakersfield Prior to Any Approval of Hybrid Alignment in Bakersfield, as Required by Paragraph 5.4 of Bakersfield Settlement Agreement

Summary of Requested Action

Staff requests that the Board adopt a resolution that strengthens previous Authority commitments to the City of Bakersfield about engagement and process prerequisites the Authority will perform prior to approval, if any, of the Bakersfield Hybrid Alignment through Bakersfield. Board consideration of this resolution is required by a litigation settlement agreement the Authority and Bakersfield entered in December 2014.

Detail of Requested Action

The May 2014 California High-Speed Train Final EIR/EIS for the Fresno to Bakersfield Section (“Final EIR/EIS”) identifies a Preferred Alternative between the Fresno HST Station and a downtown Bakersfield Truxtun Street HST Station, including an alignment through Bakersfield known as the “Bakersfield Hybrid Alignment.” The Board certified that Final EIR/EIS in May 2014 as it relates to all information in the Final EIR/EIS, including the full length of the Preferred Alternative.

In May 2014, the Authority approved for construction and operation only that portion of the Preferred Alternative north of 7th Standard Road (in Kern County, just outside the Bakersfield city limits). The approval was made via Resolution # HSRA 14-10.

As part of Resolution # HSRA 14-10, the Authority stated in the fifth Whereas clause it “will not approve any construction south of 7th Standard Road without providing the City of Bakersfield with at least sixty (60) days written notice.” Resolution # HSRA 14-10 is attached hereto as Exhibit A.

In June 2014, the City of Bakersfield filed a lawsuit challenging the Final EIR/EIS and related approvals (Sacramento Superior Court No. 34-2014-80001866). In December, the City and the Authority entered into a settlement agreement and stipulated judgment dismissing the lawsuit (the “Settlement Agreement”). The Settlement Agreement is attached hereto as Exhibit B. Paragraph 5.4 of the Settlement Agreement requires the Authority to analyze in a future environmental document and consider in good faith an HST alignment distinct from the Bakersfield Hybrid Alignment that proceeds through downtown Bakersfield, generally paralleling the Union Pacific Railroad. Paragraph 5.4 also requires the Authority to complete that future environmental document prior to any Authority approval, if ever, of the Bakersfield Hybrid Alignment through Bakersfield. This commitment is stronger than the commitment in Resolution # HSRA 14-10 that the Authority “will not approve any construction south of 7th Standard Road without providing the City of Bakersfield with at least sixty (60) days written notice.” Accordingly, the Settlement Agreement (last sentence of paragraph 5.4) requires the Board to consider a resolution that supersedes that statement in Resolution # HSRA 14-10. Such a draft resolution is attached hereto as Exhibit C.

The draft resolution states that the Authority’s commitment in paragraph 5.4 of the Settlement Agreement to complete a future environmental document prior to any approval of the Bakersfield Hybrid Alignment supersedes that portion of Resolution # HSRA 14-10 stating the Authority “will not approve any construction south of 7th Standard Road without providing the City of Bakersfield with at least sixty (60) days written notice.” In other words, the draft resolution provides comfort to the City of Bakersfield that the Settlement Agreement’s stronger requirements supersede the weaker requirements of Resolution # HSRA 14-10.

Attachments

- Resolution # HSRA 14-10 – Exhibit A
- December 2014 settlement agreement with Bakersfield – Exhibit B
- Draft Resolution # HSRA 15-04 – Exhibit C